

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

-----X
THE NEW YORK CITY EMPLOYEES' :
RETIREMENT SYSTEM, *et al.*, :

Plaintiffs, :

v. :

LISA C. BERRY, :

Defendant. :
-----X

Case No. C 08-0246-JW

**STIPULATION AND [PROPOSED]
ORDER SELECTING ADR PROCESS**

Counsel report that they have met and conferred regarding ADR and have reached the following stipulation pursuant to Civil L.R. 16-8 and ADR L.R. 3-5.

The parties agree to participate in the following

Court Processes:

Non-binding Arbitration (ADR L.R. 4)

Early Neutral Evaluation (ENE) (ADR L.R.5)

Mediation (ADR L.R. 6)

(Note: Parties who believe that an early settlement conference with a Magistrate Judge is appreciably more likely to meet their needs than any other form of ADR, must participate in an ADR phone conference and may not file this form. They must instead file a Notice of Need for ADR Phone Conference. See Civil Local Rule 16-8 and ADR L.R. 3-5)

Private Process:

Private ADR (*please identify process and provider*) Mediation

The parties agree to hold the ADR sessions by:

the presumptive deadline (*the deadline is 90 days from the date of the order referring the case to an ADR process unless otherwise ordered.*)

other requested deadline Parties will confer regarding scheduling of mediation

The parties intend to file a stipulation extending defendant Berry's time to respond to the Complaint pending resolution of the mediation.

Dated: May, 12, 2008

LOWEY DANNENBERG COHEN & HART, P.C.

/S/ DAVID C. HARRISON

BARBARA J. HART
(Admitted Pro Hac Vice)
DAVID C. HARRISON
(Admitted Pro Hac Vice)
One North Broadway, Suite 509
White Plains, NY 10601-2310
Telephone: 914-997-0500
Telecopier: 914-997-0035

*Attorneys for Plaintiffs
The New York City Pension Funds*

SCHUBERT & REED LLP
Willem F. Jonckheer
Two Embarcadero Center, Suite 1050
San Francisco, California 94111
Telephone: 415-788-4220
Telecopier: 415-788-0161

*Local Counsel for Plaintiffs
The New York City Pension Funds*

I, David C. Harrison, am the ECF user whose ID and password are being used to file this Stipulation and [Proposed] Order Selecting ADR Process. In compliance with General Order 45, X.B., I hereby attest that Rebecca F. Lubens has concurred in this filing.

May 12, 2008

ORRICK, HERRINGTON & SUTCLIFFE LLP

/S/ REBECCA F. LUBENS

JAMES N. KRAMER (State Bar No. 154704)
ERIN L. BANSAL (State Bar No. 213335)
REBECCA F. LUBENS (State Bar No. 240683)
The Orrick Building
405 Howard Street
San Francisco, CA 94105-2669
Telephone: 415-773-5700
Telecopier: 415-773-5759

*Attorneys for Defendant
Lisa C. Berry*

[PROPOSED] ORDER

Pursuant to the Stipulation above, the captioned matter is hereby referred to:

Private Mediation

Deadline for ADR session

Parties will confer regarding scheduling of mediation and advise the Court within 90 days from this Court of the mediation date.

IT IS SO ORDERED.

Dated: _____

UNITED STATES DISTRICT JUDGE